

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 James William Keck,

5 Petitioner

6 v.  
7

8 Brian Williams,

9 Respondent  
10

Case No.: 2:16-cv-02984-JAD-PAL

**Order Directing Response**

[ECF No. 9]

11 Counseled petitioner James William Keck is an inmate at the High Desert State Prison  
12 (HDSP) who pled guilty to attempted murder with the use of a deadly weapon, battery with the use  
13 of a deadly weapon resulting in substantial bodily harm, assault with a deadly weapon, and burglary  
14 while in possession of a firearm. I have screened his second amended petition, and I direct the  
15 respondents to respond to the pleading.

16 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court is directed to ADD Nevada  
17 State Attorney General Adam Laxalt as a respondent and electronically SERVE the Nevada  
18 Attorney General with a copy of the second amended petition and this order, along with regenerated  
19 notices of electronic filing of the remaining filings in this case.

20 IT IS FURTHER ORDERED that, taking into account the length of the petition and the  
21 number of claims, **respondents have 90 days to respond to the petition.** Any response filed must  
22 comply with the remaining provisions below, which are entered under Habeas Rule 4 and tailored to  
23 this particular case. If an answer is filed, Keck will have 30 days after service of the answer to file a  
24 reply. The response and reply time to any motion filed by either party, including a motion to  
25 dismiss, will be governed instead by Local Rule LR 7-2(b).

26 IT IS FURTHER ORDERED that any procedural defenses raised by respondents in this case  
27 must be raised together in a single consolidated motion to dismiss. Defenses raised in successive  
28 motions or defenses scattered throughout the answer and a motion may be waived. Respondents

1 may not file a response in this case that consolidates their procedural defenses, if any, with their  
2 response on the merits, unless allowed by 28 U.S.C. § 2254(b)(2) as to any unexhausted claims  
3 clearly lacking merit. If respondents do seek dismissal of unexhausted claims under § 2254(b)(2):  
4 (a) they must do so within the single motion to dismiss—not in the answer; and (b) they must  
5 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in  
6 *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses,  
7 including exhaustion, may be included with the merits in an answer—they instead must be raised by  
8 motion to dismiss.

9 IT IS FURTHER ORDERED that, in any answer filed on the merits, respondents must  
10 specifically cite to and address the applicable state-court written decision and state-court-record  
11 materials, if any, regarding each claim within the response as to that claim.

12 IT IS FURTHER ORDERED that respondents must file a set of state-court exhibits relevant  
13 to the response filed to the petition, in chronological order. All state-court-record exhibits filed  
14 herein must be filed with a separate index of exhibits identifying the exhibits by number. The  
15 CM/ECF attachments that are filed further must be identified by the number or numbers of the  
16 exhibits in the attachment, in the same manner as in No. 3:06-cv-00087-ECR-VPC, ## 25-71. The  
17 purpose of this provision is to permit a reviewing court to be able to quickly determine from the face  
18 of the electronic docket sheet which numbered exhibits are filed in which attachments. Counsel  
19 must send a hard copy of all exhibits filed in this case to the Reno Clerk's Office.

20 Dated: August 10, 2018

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23 U.S. District Judge Jennifer Dorsey  
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